

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

JOE CLARK MITCHELL

Petitioner

v.

JAMES FORTNER, Warden

Respondent

No. 1:93-0073

Judge Haynes

**RENEWED MOTION FOR DISCOVERY**

Pursuant to Habeas Corpus Rule 6, Movant Joe Clark Mitchell respectfully renews his motion for leave to conduct a deposition of post-conviction counsel (Daniel Runde, Esq.), a motion this Court earlier denied without prejudice, pending ruling on the Motion For Relief From Judgment, which has now been granted. See R. 188 (order denying discovery motion without prejudice).

A deposition is necessary to establish evidence that post-conviction counsel was ineffective under Strickland v. Washington, 466 U.S. 668 (1984) in failing to fully present Mitchell's claim that trial counsel was ineffective for failing to make a winning *Batson* objection, such that Mitchell is entitled to relief on his ineffectiveness claim under Martinez v. Ryan, 566 U.S. 1 (2012) and *Strickland*.

Post-conviction counsel is now employed by the same District Attorney's Office that violated *Batson*. Consequently, the best means of securing evidence from him at this point is via deposition, especially where Mr. Runde has understandably expressed concerns to Petitioner's counsel about providing a sworn statement concerning legal claims that implicate his current employer.

To allow Petitioner to investigate and present his claims to this court at hearing, it

ORDER  
This motion  
is GRANTED  
in light of  
of Martinez  
v. Ryan  
7-3-13